



Entered on Docket
January 05, 2010

A handwritten signature in black ink, appearing to read "Hon. Mike K. Nakagawa".

Hon. Mike K. Nakagawa
United States Bankruptcy Judge

7 ROGER P. CROTEAU, ESQ.

E-Filed

8 Nevada Bar No. 4958

9 TIMOTHY E. RHODA, ESQ.

Nevada Bar No. 7878

10 ROGER P. CROTEAU & ASSOCIATES, LTD.

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11 (702) 254-7775

12 *Attorney for Debtor*

13 **ROBERT W. GREENE AND**

MYRNA R. GREENE

14 UNITED STATES BANKRUPTCY COURT

15 DISTRICT OF NEVADA

16 ***

17 In re:

18 ROBERT W. GREENE and
19 MYRNA R. GREENE,

20 Debtors.

21 Case No.

BKS-09-19834-MKN
Chapter 13

22 Hearing:

December 10, 2009
2:30 p.m.

23 **AMENDED**

24 **ORDER GRANTING MOTION TO VALUE COLLATERAL, "STRIP OFF"**

25 **AND MODIFY RIGHTS OF EMC MORTGAGE PURSUANT TO**

26 **11 U.S.C. §506 (a) AND §1322**

27 THIS MATTER having come before the Court for a hearing on December 10, 2009, on

1 Debtors' Motion to Value Collateral, "Strip Off" and Modify Rights of EMC MORTGAGE
2 (*hereinafter "Lender"*) Pursuant to 11 U.S.C. §506 (A) and §1322, and based upon the papers
3 and pleadings on file herein, and good cause appearing; the Court finds as follows:

- 4 1. The Debtors' real property located at 8335 Brown Mountain Court, Las Vegas,
5 Nevada 89131 (*the "Property"*) is valued at \$188,500.00 as of the date of filing of
6 Debtor's Chapter 13 Petition.
- 7 2. As of the petition date, the Property was encumbered by a First Trust Deed owned
8 and/or serviced by Indymac Bank and/or DHI Mortgage Company, LTD. securing
9 a note with a principal balance of approximately \$339,991.00
- 10 3. Lender owns and/or services a Second Trust Deed recorded with the Clark County
11 Recorder on December 22, 2006, in book number 20061222 as instrument number
12 0004173, securing a home equity line of credit with a principal balance of
13 approximately \$84,997.00 (*the "Second Deed of Trust"*).
- 14 4. On the filing date of the instant Chapter 13 Petition, the Second Deed of Trust and
15 Lender's corresponding claim was wholly unsecured.

16 IT IS THEREFORE ORDERED THAT Lender's Second Deed of Trust is hereby
17 "stripped off" and avoided pursuant to 11 U.S.C. §506(a);

18 IT IS FURTHER ORDERED THAT Lender's Second Deed of Trust and its lien holder
19 rights in the Property are hereby terminated and Lender's Second Deed of Trust claim and lien
20 shall be paid as a general unsecured creditor through the Debtor's Chapter 13 plan;

21 IT IS FURTHER ORDERED THAT in the event the instant Chapter 13 matter is
22 converted to a Chapter 7 case, this order will be void and without effect.

23 IT IS FURTHER ORDERED THAT in the event the instant Chapter 13 matter is
24 dismissed for any reason, Lender's Second Deed of Trust and claim shall be reinstated to its
25 status as a secured claim on the Subject Property pursuant to 11 U.S.C. §349(b).

26 **IT IS SO ORDERED.**

1 DATED this 22nd day of December, 2009.
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Respectfully submitted by:

5 ROGER P. CROTEAU & ASSOCIATES, LTD.
6
7

/s/TIMOTHY E. RHODA, ESQ.
8 TIMOTHY E. RHODA, ESQ.
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10 **Attorney for Debtors**

11
12 Approved / Disapproved
13
14

15 RICK A. YARNALL
16 Chapter 13 Trustee
17
18

In accordance with LR 9021, counsel submitting this document certifies as follows:

20 _____ The court has waived the requirement of approval under LR 9021.

21 X This is a chapter 7 or 13 case, and either with the motion, or at the hearing, I have
22 delivered a copy of this proposed order to all counsel who appeared at the hearing, any
23 unrepresented parties who appeared at the hearing, and each has approved or disapproved the
order, or failed to respond, as indicated below [list each party and whether the party has
24 approved, disapproved, or failed to respond to the document]:

	<u>Approved</u>	<u>Disapproved</u>	<u>Failed to Respond</u>
RICK A. YARNALL	_____	_____	X

I certify that I have served a copy of this order with the motion, and no parties appeared or
filed written objections.